

Reasons For Allowance

1. The following is the examiners statement of reasons for allowance, the present claims are allowable over the closest prior art, Dambricourt (WO/2001068355 with US 2003/0194521 used as a translation), Johnson (US 5,314,716) and Loontjens et al. (US 2002 0161096) for the following reasons.

2. Dambricourt teaches a tube resistant to stress cracking and impermeable to water vapor of the desired length of the instant application, however Dambricourt is silent with regards to the angles present in the angle of the free end and the projecting cone frustum, the dispersion factor, all of which Dambricourt does not teach at all, as well as the material of the tube consisting of a mixture of copolymer-olefins wherein the first copolymer olefin is a heterophase copolymer of propylene and ethylene.

3. Johnson et al. teach heterophase compounds of polypropylene and polyethylene however there is no motivation for one of ordinary skill in the art to combine the polymers of Johnson et al. used for non self supporting articles such as bags, in the tubes of the present invention, specifically because the polymers of Johnson are directed towards films of cloth like feel that are soft and pliant and as such one of ordinary skill in the art would not look to these polymers to modify a flexible tube. Further polypropylene has a high rigidity, generally much higher than polyethylene and for this reason it would not be obvious to use the polymers of Johnson et al. in the bottle of Dambricourt et al. are Johnson et al are also silent with regards to the dispersion factor,

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4. Upon updating the searches a new reference came to the attention of the examiner. Loontjens et al. teach heterophase polypropylene and polyethylene copolymers however they teach that the heterophase copolymer comprises an additional ingredient, a layered interstratified clay, where as the instant invention consists of copolymer olefins. Loontjens et al. also fail to teach the inclusion of a second olefin copolymer.

5. Thus it is clear that Dambricourt, Johnson or Loontjens et al. alone or in combination do not disclose the present invention.

6. Further the argument and amendments submitted on 10/19/09 overcome the 35 U.S.C. 112 2nd paragraph rejection as well as the double patenting rejection of record.

7. The terminal disclaimer filed on 10/19/09 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/543,077 has been reviewed and is accepted. The terminal disclaimer has been recorded.

In light of the above the present claims are passed to issue.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIK KASHNIKOW whose telephone number is (571)270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (Second Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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